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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CUSTOM APPEAL NO.48 OF 2016

M/s.Mantech Counting Systems
Pvt.Ltd. ...Appellant
vs.
Union of India and others ...Respondents

ALONG WITH
CUSTOM APPEAL NO.49 OF 2016

M/s.Sivzera Labs Pvt. Ltd. ...Appellant
vs.
Union of India and others ...Respondents

ALONG WITH
CUSTOM APPEAL NO.50 OF 2016

M/s.Maneesh Pharmaceuticals
Pvt.Ltd. ...Appellant
vs.
Union of India and others ...Respondents

ALONG WITH
CUSTOM APPEAL NO.51 OF 2016

Vinay Sapte ...Appellant
vs.
Union of India and others ...Respondents

ALONG WITH
CUSTOM APPEAL NO.58 OF 2016

Satish Khalap ...Appellant
vs.
Union of India and others ...Respondents

Mr.Ashok Singh for the appellant in all appeals
Mr.Swapnil Bangur for the respondents in all appeals

CORAM : A.S.OKA, &
RIYAZ I. CHAGLA,JJ.
DATE : SEPTEMBER 11, 2017

P.C.:

1 Perused the order dated 21st August 2017. By the said order, notice for final disposal was issued by this Court. Today, the respondents are represented by an Advocate. Hence, we have taken up the appeals for final disposal.

2 The challenge in these appeals is to the common Judgment and Order dated 20th July 2015. For the sake of convenience we are making a brief reference to the facts of only Appeal No.58 of 2016. On 28th November 2014, the Commissioner of Central Excise, Belapur passed an order imposing penalty of Rs.25,00,000/- on the appellant in exercise of power under section 112 (a) of the Customs Act,1962 as well as Rule 26 of the Central Excise Rules, 2002. Being aggrieved by the said order, the appellant preferred an appeal before the Customs, Excise and Service Tax Appellate Tribunal (for short `the Appellate Tribunal'), West Zonal Bench at Mumbai. As the appellant did not comply with the requirement of deposit of 7.5% of the duty towards pre-deposit, by the impugned order, the appeal was dismissed as not maintainable on account of the failure to make mandatory pre-deposit. In fact, by the impugned order dated 20th July 2015 passed by the Appellate Tribunal, all the appeals which are subject matter of this group of appeals were dismissed on the same

ground. The order dated 21st August 2017 records a statement of the learned counsel for the appellants that the appellants would comply with the requirement of pre-deposit within a period of two months from the said date. After hearing the learned counsel for the parties, we are of view that a final opportunity deserves to be granted to the appellants to prosecute the appeals by making necessary pre-deposit.

3 Accordingly, we pass the following order:

(I) On the compliance by the appellants with the requirement of pre-deposit amounts in terms of the impugned orders on or before 20th October 2017, the impugned orders shall stand set aside and the Appeal Nos.C/85623/15 to C/85627/15 shall stand restored to the file of the Appellate Tribunal which shall be decided in accordance with law;

(II) On the failure to comply with the requirement of pre-deposit amounts on or before 20th October 2017, the impugned orders shall stand;

(III) Appeals are partly allowed on above terms;

(IV) All concerned to act upon an authenticated copy of this Judgment and order.

(RIYAZ I. CHAGLA,J.) (A.S.OKA,J.)